

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION**

CONTINENTAL RESOURCES, INC.,)	
)	
Plaintiff,)	SECOND AMENDED
)	SCHEDULING/DISCOVERY PLAN
v.)	
)	Civil No. 1:16-cv-91
RINK CONSTRUCTION, INC.,)	
)	
Defendant.)	

Pursuant to the Status Conference held July 15, 2019 (Doc. 75) ordering the parties to submit a revised scheduling order, counsel for the parties have agreed upon and respectfully submit the following revised deadlines:

1. The parties have already made their Rule 26(a)(1) disclosures.
2. The issues on which the parties need to conduct discovery are:
 - a. Plaintiff's accrued and accruing damages caused by Defendant's alleged breach of the MSC; and
 - d. Defendant's affirmative defenses set forth in its Answer.
3. The parties shall have until June 15, 2020 to complete fact discovery and to file fact discovery motions.
4. The parties shall provide the names of expert witnesses and complete reports under Rule 26(a)(2) as follows:
 - a. Plaintiff: June 15, 2020
 - b. Defendant: July 15, 2020
5. The parties shall have until September 15, 2020 to complete discovery

depositions of expert witnesses and to file expert discovery motions.

6. The parties shall have until July 15, 2020, to file other dispositive motions (summary judgment as to all or part of the case).
7. Each party shall serve no more than 25 interrogatories, including subparts. No broad contention interrogatories (i.e., "List all facts supporting your claim that . . .") shall be used. (Show good cause for more than the 25 interrogatories allowed by Rule 33).
8. Each side shall take no more than 10 discovery depositions. (Show good cause for more than the 10 depositions allowed by Rule 30.)
9. Depositions taken for presentation at trial shall be completed 30 days before trial.
10. Counsel have discussed between themselves and explored with their clients early involvement in alternative dispute resolution. The following option(s) would be appropriate in this case:

_____ **arbitration**

___X___ **mediation** (choose one):

___X___ private mediator

_____ court-hosted early settlement conference-should the
conference be held before a judge who will not be the
trial judge?

_____ yes

_____ doesn't matter

_____ **early neutral evaluation** before (choose one):

_____ judge other than trial judge

_____ neutral technical expert

_____ neutral attorney

_____ other (specify) _____

_____ none (explain reasons) _____.

The parties shall be ready to evaluate the case for settlement purposes by June 15, 2020. (If an ADR option other than a court-hosted settlement conference is chosen, counsel shall designate one of themselves to report back to the magistrate judge that the ADR effort was completed and whether or not it was successful). The court reminds the parties that early involvement in ADR is voluntary, not mandatory. Participation in ADR is encouraged by the court but is not required except for a settlement conference shortly before trial.

11. A mid-discovery status conference would not be helpful in this case. An appropriate time for the conference would be (not applicable).
12. The parties will not voluntarily waive their rights to proceed before a district judge and consent to have a magistrate judge conduct any and all further proceedings in the case, including the trial, and order the entry of a final judgment.
13. Jury trial is scheduled for February 1, 2021 at 9:00 a.m.

14. The estimated length of trial is 2 days.
15. Final Pretrial Conference is scheduled for January 19, 2021 at 1:30 p.m.
16. Disclosure or discovery of electronically stored information:

Both parties have taken steps to preserve electronically stored information (ESI). The parties agree to produce such information in PDF or TIFF, or in the format in which it was created such as (without limitation) WORD, WordPerfect, and Excel. ESI will be produced via disk, thumb drives, Dropbox, and/or email. With respect to email searches, the parties will attempt to agree on reasonable search terms and key words to be used to search for responsive and relevant emails. Parties reserve the right to request the native version of any document and to object to the production of native versions. The parties agree to make all reasonable efforts to resolve any disputes that may arise between the parties in regard to the scope of electronic discovery or disclosure, and the costs of the same. Parties will attempt to address these issues, if any, without Court involvement. In the event of inadvertently produce privileged or trial preparation materials, the parties agree to allow the other party to “clawback” those documents pursuant to Fed. R. Civ. P. 26(5)(B). Further “clawback” provisions will be provided in an agreed protective order.

Dated this 3rd day of September, 2019.

Respectfully submitted,

/s/ Gary S. Chilton

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ORDER

The court **ADOPTS** the parties' second amended scheduling/discovery plan.

IT IS SO ORDERED.

Dated this 6th day of September, 2019.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court